



Legal Update

Commonwealth v. Condon

Appeals Court 19-P-722

December 18, 2020

A suspect giving a false address to investigators during a rape investigation was not misleading a police officer as defined by MGL c. 265 sec. 13B

Relevant Facts

On January 24, 2017 the defendant's ex-girlfriend reported to the police that she was raped by the defendant. In the week that followed, police investigated the allegation including interviewing various witnesses but they were not able to physically locate the defendant. On January 31, the investigating officer got a phone number for the defendant and spoke to him over the phone. The defendant denied the allegations and denied even seeing the victim recently. When asked for his address, the defendant asked why police needed it but did not provide an address. The officer checked Google maps and town tax records and drove by the address ultimately confirming that it was a false address. On February 3, the officer looked for the defendant at various locations, spoke to the defendant's current girlfriend and his father, but was not able to locate him. The officer then sought an arrest warrant for the defendant. The defendant was charged with rape and misleading a police officer.

Issue

Did the defendant mislead a police officer as defined by MGL c 268 sec 13B when he gave the officer a false address?

Conclusion

No. The facts and circumstances of this case were insufficient to prove the charge of misleading a police officer in violation of MGL c 268 sec 13B.

For specific guidance on the application of these cases or any law, please consult your supervisor or your department's legal advisor or prosecutor.

The jury could have readily found that the defendant deliberately gave the investigator a false address in order to make it more difficult to find him. There was also evidence that the investigating officer did, in fact, waste some time and effort as a result of that false information. For purposes of the statute, the question is whether the misinformation “reasonably could lead investigators to pursue a course of investigation materially different from the course they otherwise would have pursued.” *Commonwealth v. Paquette*, 475 Mass. 793, 801 (2016). By the time the defendant gave the false address to the officer in this case, the police had already conducted an extensive investigation that was sufficient to charge the defendant. There was no evidence that the false information provided by the defendant led the officer to investigate the case in a materially different way or that it delayed or impeded the arrest of the defendant.

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